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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.         | CONFIRMATION NO.       |
|---|-------------|----------------------|-----------------------------|------------------------|
| 10/574,610  | 04/04/2006  | Michel Jan DeRuijter | C4325(C)                    | 4215                   |
| 201 7590 05/13/2009<br>UNILEVER PATENT GROUP<br>800 SYLVAN AVENUE<br>AG West S. Wing<br>ENGLEWOOD CLIFFS, NJ 07632-3100 |             |                      | EXAMINER<br>DOUYON, LORNA M |                        |
|   |             |                      | ART UNIT<br>1796            | PAPER NUMBER           |
|   |             |                      | MAIL DATE<br>05/13/2009     | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

10/574,610

## Applicant(s)

DERUIJTER, MICHEL JAN

## Examiner

Lorna M. Douyon

## Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 13, 2009 has been entered.
2. Claims 1-8 are pending.
3. The objection to claim 1 is withdrawn in view of Applicant's amendment.
4. The objection to claim 6 is withdrawn in view of Applicant's amendment.
5. The rejection of claims 1-8 under 35 U.S.C. 103(a) as being unpatentable over Mort, III et al. (US Patent No. US 6,258,773) is withdrawn in view of Applicant's amendment.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 1-8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The newly added limitation in the present claim 1 which is "wherein the temperature is kept at a temperature no greater than about 80 °C during the process" is nowhere supported in the specification and is therefore considered as new matter. While the specification provides support for "the temperature in the mixer/granulator is no greater than... 80 °C" at page 9, lines 4-6, there is nowhere in the specification wherein the temperature is kept at the recited temperature "during the process", which process includes other steps like that of claim 5 wherein the product stream enters a fluidized bed, and there is nowhere in the specification wherein it is stated that the temperature in the fluidized bed is also maintained at the recited temperature.

***Claim Rejections - 35 USC § 103***

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beimesch et al. (US Patent No. 6,211,137), hereinafter "Beimesch".

Beimesch teaches a non-tower process for continuously preparing granular detergent compositions having a density of at least of about 600 g/l which comprises the steps of (a) dispersing a surfactant, and coating the surfactant with fine powder having a diameter from 0.1 to 500 microns, in a mixer, wherein first agglomerates are formed and (b) granulating the first agglomerates in one or more fluidizing apparatus (see abstract). Beimesch teaches an example for obtaining agglomerates having high density, using Lodge CB mixer (CB-30), followed by Fluid Bed Apparatus for further granulations, comprising the following steps: [Step 1] 15 kg/hr-30 kg/hr of HLAS (an acid precursor of C<sub>11</sub>-C<sub>18</sub> alkyl benzene sulfonate; 95% active) at about 50°C., and 20 kg/hr of AE<sub>3</sub>S liquid (C<sub>10</sub>-C<sub>18</sub> alkyl alkoxy sulfates, EO-3; 28% active) is dispersed by the pin tools of a CB-30 mixer along with 220 kg/hr of powdered STPP, 160-200 kg/hr of ground soda ash 120 kg/hr of ground sodium sulfate (mean particle size of 15 microns), and the 200 kg/hr (about 25-29%) of internal recycle stream of powder. The surfactant paste is fed at about 40 to 52°C., and the powders are fed at room temperature. The CB-30 mixer has a jacket temperature of 30°C. [Step 2] The agglomerates from the CB-30 mixer are fed to a fluid bed drying apparatus having a bed temperature of 40-70°C. The resulting granules from the step 2 have a density of about 600 g/l, and can be optionally subjected to the optional processes of cooling, sizing and/or grinding (see Example 2, col. 13, line 64 to col. 15, line 34). The internal recycle stream of powder, having a diameter of about 0.1 to about 300 microns, is generated from fluidizing apparatus in the second step (hence, should contain a surfactant within those recited), can be fed into the mixer in addition to the fine powder, and the amount of such internal recycle

stream of powder can be 0 to about 60 wt % of the final product from the process of the present invention (see col. 4, lines 7-21). Beimesch, however, fails to specifically disclose a recycle stream of from 30 to 50% of the mass flow rate of the product stream.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to select the portion of the prior art's range which is within the range of applicant's claims because it has been held to be obvious to select a value in a known range by optimization for the best results. As to optimization results, a patent will not be granted based upon the optimization of result effective variables when the optimization is obtained through routine experimentation unless there is a showing of unexpected results which properly rebuts the prima facie case of obviousness. See *In re Boesch*, 627 F.2d 272,276,205 USPQ 215,219 (CCPA 1980). See also *In re Woodruff* 919 F.2d 1575, 1578,16 USPQ2d 1934, 1936-37 (Fed. Cir. 1990), and *In re Aller*, 220 F.2d 454,456,105 USPQ 233,235 (CCPA 1955). In addition, a *prima facie* case of obviousness exists because the claimed ranges "overlap or lie inside ranges disclosed by the prior art", see *In re Wertheim*, 541 F.2d 257,191 USPQ 90 (CCPA 1976; *In re Woodruff*; 919 F.2d 1575,16USPQ2d 1934 (Fed. Cir. 1990). See MFEP 2131.03 and MPEP 2144.05I.

### ***Response to Arguments***

10. Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is 571-272-1313. The examiner can normally be reached on Mondays-Fridays 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lorna M Douyon/  
Primary Examiner, Art Unit 1796